



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Aging and Disability Services Administration

Permanent Rule Only

Effective date of rule:

Permanent Rules

☒ 31 days after filing.

☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: The purpose of these rules is to consider making clarifying changes and consolidate terms to simplify the rules. The impact of the rules is to make the rules clearer, easier to read, understand, and apply.

Citation of existing rules affected by this order:

Repealed: WAC 388-76-10185

Amended: WAC 388-76-10035; WAC 388-76-10036; WAC 388-76-10040; WAC 388-76-10090; WAC 388-76-10105; WAC 388-76-10110; WAC 388-76-10200; WAC 388-76-10415; WAC 388-76-10505; WAC 388-76-10550; WAC 388-76-10860; WAC 388-76-10970; WAC 388-76-10975; WAC 388-76-10985

Suspended: None

Statutory authority for adoption: RCW 70.128.040

Other authority: None

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-21-070 on October 16, 2009 (date).

Describe any changes other than editing from proposed to adopted version: See attachment

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Date adopted:

January 22, 2010

NAME (TYPE OR PRINT)

Susan N. Dreyfus

SIGNATURE

TITLE

Secretary, Department of Social and Health Services

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 22, 2010

TIME: 9:36 AM

WSR 10-04-008

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>14</u>	Repealed	<u>1</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>14</u>	Repealed	<u>1</u>

Rule Making Order CR-103
Chapter 388-76 WAC Adult Family Homes
ATTACHMENT

Describe any changes other than editing from proposed to adopted version: Changes are shown with new language underlined and deleted text lined through.

WAC 388-76-10105 Application--Change of ownership. (1) Under this section, "control of the provider" means the possession, directly or indirectly, of the power to direct the management, operation and/or policies of the adult family home, whether through ownership, voting control, by agreement, by contract or otherwise.

(2) A change of ownership of an adult family home requires both a new license application and a new license.

(3) A change of ownership occurs when there is a change in:

(a) The provider; or

(b) The control of a provider.

(4) Events which constitute a change of ownership include, but are not limited to:

(a) The form of legal organization of the adult family home is changed, such as when an adult family home forms:

(i) A partnership;

(ii) A corporation;

(iii) A limited liability company; or

(iv) When it merges with another legal organization.

(b) The adult family home transfers business operations and management responsibility to another party, whether or not there is a partial or whole transfer of real property, personal property, or both.

(c) Two people are both licensed as a married couple or domestic partners to operate an adult family home and an event, such as a separation, divorce, or death, results in only one person operating the home.

(d) Dissolution of a business partnership that is licensed to operate the adult family home.

(e) If the adult family home is a corporation and the corporation:

(i) Is dissolved;

(ii) Merges with another corporation, resulting in a change in the control of the provider; or

(iii) Consolidates with one or more corporations to form a new corporation;

(iv) Whether by a single transaction or multiple transactions within a continuous twenty-four month period, transfers fifty percent or more of its shares to one or more of the following:

(A) New or former shareholders; or

(B) Present shareholders, each having less than five percent of the shares before the initial transaction.

(f) Any other event or combination of events that results in a substitution, elimination, or withdrawal of the provider's control of the adult family home.

(5) The new owner:

(a) Must correct all deficiencies that exist at the time of the ownership change;

(b) Is subject to the provisions of chapters 70.128, 70.129, 74.34 RCW, this chapter and other applicable laws and regulations;

(c) Must obtain a new license from the department before the transfer of ownership; and

(d) Must not begin operation of the adult family home until the department has granted the license.

(6) The home must notify each resident, in writing at least thirty days before the effective date of the ownership change.

(7) In order to prevent disruption to residents, currently licensed providers may request in writing that the department give priority processing to an applicant seeking to be licensed as the new provider for the adult family home.

~~Currently licensed providers seeking a license for a new adult family home may request application processing priority in order to minimize or prevent disruption to current residents. The must:~~

- ~~(a) Make the request to the department in writing, including the reason for changing the ownership of the home; and~~
- ~~(b) Explain how or why the reason for the change is beyond the control of the home.~~

WAC 388-76-10200 Adult family home--Staff--Availability--Contact information. In addition to other licensing requirements for staff availability, the adult family home must:

(1) Ensure at least one caregiver is present in the home whenever one or more residents are present in the home, unless the resident has been assessed as being safe when left unattended for a specific period of time, and that information is included in the negotiated care plan;

(2) Designate an experienced, staff member who is capable of responding on behalf of the adult family home by phone or pager at all times.

(3) Give residents the telephone or pager number for the contact required in subsection (2) of this section;

(4) Ensure the provider, entity representative or resident manager is readily available to:

- (a) Each resident;
- (b) Residents' representatives;
- (c) Caregivers; and
- (d) Authorized state staff.

The changes were made because of comments received and to clarify the requirements.

SUMMARY OF COMMENTS RECEIVED	THE DEPARTMENT CONSIDERED ALL THE COMMENTS. THE ACTIONS TAKEN IN RESPONSE TO THE COMMENTS, OR THE REASONS NO ACTIONS WERE TAKEN, FOLLOW.
10105- There was a comment about clarifying whether the adult family home license was for the home or for the person or entity. Under Section 7, there is a conflict since it refers to licensed adult family home providers seeking to change a licensed adult family home.	No change was made. The current definition of adult family home includes two parts: (1) A residential home in which a person or entity are licensed to provide ... care ...; and (2) ...any person or entity who has been granted a license to operate an adult family home. The license is for both the specific home and for the person or entity. Any change in either the home or person/entity requires a change of ownership application. A change was made in response to this comment by using the language in statute RCW 70.128.064.
10200-Section 1” The residents in my adult family home do not always require or want staff to be available in the AFH to meet their needs. They do not have needs that require staff all of the time. They want time alone in their home.”	A change was made. An exception was added to reflect that if a resident’s assessment and care plan specified that the resident was safe to be left unattended and for a specified period of time the home could do so.